



Michigan District

The Lutheran Church—Missouri Synod

People of Hope ... Vigorously Making Known the Love of Christ

Fair Labor Standards Act Final Rule Issued

On Sept. 24, 2019, the U.S. Department of Labor announced a final rule that raises the minimum salary threshold for exemptions under the Fair Labor Standards Act (FLSA) for executive, administrative, and professional roles to \$684 per week (\$35,568 per year). The rule takes effect January 1, 2020 and is an increase from the current \$455 per week (\$23,660 per year) threshold, which was established in 2004. The Department estimates that 1.3 million additional employees will become eligible for overtime pay.

Please note the announcement came as the 29th printing of the *LCMS Congregational Treasurer's Manual* was already in progress. Please disregard the lesser published amounts of \$679 and \$35,308, respectively, found in Section 7.334 of the manual. The section provides an overview of the overtime requirements for congregations (www.lcms.org/ctm).

The final rule also raises the annual compensation requirement for “highly compensated employees” from the currently enforced level of \$100,000 per year to \$107,432 per year and allows employers to use nondiscretionary bonuses and incentive payments (including commissions) paid at least annually to satisfy up to 10% of the standard salary level, in recognition of evolving pay practices. For additional changes and further information, visit dol.gov/whd/overtime2019/.

Most ordained and commissioned workers of the Lutheran Church—Missouri Synod (and potentially others serving in certain ministry positions) are not subject to the FLSA due to the Ministerial Exception and other protections under the First Amendment. Bona-fide teachers are typically not subject to the minimum salary provisions, so the Final Rule will not impact most teachers.

You might recall that a final rule was to take effect on December 1, 2016, raising the minimum threshold from \$23,660 to \$47,476 annually. That rule was blocked on November 22, 2016 by a federal judge granting a nationwide injunction. During 2016, Lutheran Church—Missouri Synod congregations and schools had been working diligently to prepare for the changes. Many of those congregations identified that existing employees may have already been improperly classified as exempt, such as those that didn't meet the duties requirements under one of the established exemptions. In addition, many congregations recognized that other aspects of current FLSA regulations were not being followed, such as not carrying over comp time past a defined 168 hour (7 day) period, accurately tracking hours for non-exempt workers, etc. Congregations were encouraged to continue in their diligence in becoming compliant in these areas under existing law.

In preparation for the 2016 rule, the LCMS provided a webinar that featured its legal counsel discussing the new regulations as well as the FLSA's application to congregations in general. This webinar, available at <https://blogs.lcms.org/2016/webinar-explains-new-overtime-regulations/>, is still a great resource for congregations—just substitute the changes discussed above appropriately.